IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.499 OF 2003

The State of Maharashtra
(Through Food Inspector, FDA, Pune) ...Appellant

V/s

1. Tarachand Motilal Chuttar
2. M/s. Chimanlal Govinddas
3. H.B. Baxi @ Hasmukh Bansantilal Bakshi.
4. M/s. Khandesh Extraction Ltd. ... Respondents.

Mr. D.P. Adsule, APP for the appellant.

Mr. S.K. Sharma for the respondent Nos. 2 and 4.

CORAM: V.M.KANADE,J.
DATE: 20th January, 2005

P.C.

1. Heard the learned APP appearing on behalf of the State and the learned Counsel appearing on behalf of the respondent.

2. The State has filed this appeal challenging the judgment and order passed by the Chief Judicial Magistrate, Pune in R.C.C. No.115 of 2001. By the said judgment and order dated 6/9/2002, the Chief Judicial Magistrate was pleased to acquit the respondents of the offence punishable under the provisions of the Prevention of Food Adulteration Act, 1954.

3. The learned APP has taken me through the judgment and order of the Trial Court. The Trial Court has given cogent reasons for dismissing the complaint filed by the complainant. It has come on record that the accused Nos. 1 and 2 had purchased three bags of Vanaspati (Amrut Brand) from accused Nos. 3 and 4. It is an admitted position that the goods were manufactured by accused Nos. 3 and 4. Section 19 of the said Act reads as under:-

> "**19. Defences which may or may not be allowed in prosecution under this Act.**-(1) It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.
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> [(2) A vendor shall not be deemed to have committed an offence pertaining to the sale of any adulterated or misbranded article of food if he proves -
>
> (a) that he purchased the article of food -

(i) in a case where a licence is prescribed for the sale thereof, from a duly licensed manufacturer, distributor or dealer;

(ii) in any other case, from any manufacturer, distributor or dealer, with a written warranty in the prescribed form; and

(b) that the article of food while in his possession was properly stored and that he sold it in the same state as he purchased it.]

(3) Any person by whom a warraty as is referred to [in Section 14] is alleged to have been given shall be entitled to appear at the hearing and give evidence."

From the perusal of the said section, it is abundantly clear that the purchaser of goods manufatured by some other party is entitled to get the protection under the said provision. The Trial Court, in my view, has therefore rightly observed that no case was made out against accused Nos. 1 and 2. From the perusal of the statement of the complainant and the panchanama

which is prepared seizing three bags of Vanaspati, it can be seen that these three bags were not sealed and, therefore, the mandatory provisions of Rule 22A has not been followed. Moreover, there is also non-compliance of Rule 14. I, therefore, do not see any reason to interfere with the said judgment and Order passed by the Trial Court. Leave is refused.

Appeal is dismissed.

V.M. KANADE, J.